

Docket No.: NY-LUD 5298-US5-DIV (103092700
(PATENT))

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Kohei Miyazono et al.

Application No.: 10/630,555

Confirmation No.: 7477

Filed: July 30, 2003

Art Unit: 1646

For: ANTIBODIES WHICH BIND
SPECIFICALLY TO ACTIVIN RECEPTOR
LIKE KINASES

Examiner: B. D. Hissong

PETITION TO WITHDRAW TERMINAL DISCLAIMER
(37 C.F.R. § 1.182, MPEP 1490 (VII))

Mail Stop: Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Pursuant to the above referenced provisions of 37 C.F.R. and the MPEP, applicants petition for the withdrawal of a terminal disclaimer.

Please charge any fees due herewith to Deposit Account No. 500624.

FACTS

On October 11, 2006, applicants filed a terminal disclaimer in this application, in response to a rejection of claim 32 on obviousness type double patenting, in view of U.S.

Patent No. 6,982,319.

Claim 32 read as follows:

An isolated antibody which binds specifically to a human protein having activin like kinase activity which is encoded by a nucleic acid molecule consisting of a nucleotide

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sequence, the complementary sequence of which hybridizes to the nucleotide sequence of SEQ ID NO: 1, at 0.5x55°C, 0.1% SDS at 55°C, 5xSSC, 0.1% SDS, followed by two 15 minute washes in 0.5xSSC, 0.1% SDS, at 55°C.

Currently, claim 34 is presented, which reads:

An isolated antibody which binds specifically to the extracellular domain of a human protein encoded by the nucleotide sequence set forth in SEQ ID NO: 1.

The extracellular domain of the protein encoded by SEQ ID NO: 1 has less than 30% homology with the extracellular domain of the protein recited in the patent used by the Examiner in his double patenting rejection.

The change in claim language has been discussed with Examiners Landsman and Hisson, who agreed that an obviousness type double patenting rejection was no longer appropriate.

As such, it is requested that the Terminal Disclaimer be WITHDRAWN.

Favorable consideration is requested.

Respectfully submitted,

By 

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